

Date: July 20, 2009

Applicant: JOHNSON *et al.*
Serial No: 09/667,693
Filing Date: September 22, 2000
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE PATENT APPLICATION OF:	James H. JOHNSON <i>et al.</i>
SERIAL NO.:	09/667,693
FILING DATE:	September 22, 2000
REISSUE OF:	U.S. Patent No. 5,812,249
PATENT ISSUE DATE:	September 22, 1998
ATTORNEY DOCKET NO.:	032028-0311096
CONFIRMATION NO.:	1007
ART UNIT:	3663
EXAMINER:	Mark Hellner
FOR:	Speed and Acceleration Monitoring Device Using Visible Laser Beams

**REPLY TO 18 JUNE 2009
NOTICE OF NON-COMPLIANT
AMENDMENT****MAIL STOP REISSUE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

In response to the "Notice of Non-Compliant Amendment" (hereinafter "Notice") mailed **June 18, 2009** in the above-captioned application, and further to the "Response to Non-Final Office Action" filed on May 5, 2009 (hereinafter "05/05/09 Amendment"), Applicants present the following Remarks in support of the contention that the Notice was issued in error for at least the reason that the above-identified application is a reissue application subject to the manner of making amendments set forth in 37 C.F.R. § 1.173.

The Notice *alleges* that the 05/05/09 Amendment was non-compliant because the amendments to the claims included improper status identifiers [*see* Notice, item 4C]. Applicants respectfully note that the above-identified application is a reissue application. As such, 37 C.F.R. § 1.121(i) dictates that any amendment to the description and claims in

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reissue applications *must* be made in accordance with § 1.173. Accordingly, the status identifiers enumerated in § 1.121(c) are not required for amendments in a reissue application, as 37 C.F.R. § 1.173 applies to reissue applications [*see also* MPEP § 1453(II) and MPEP § 1453(V)(E)].

37 C.F.R. § 1.173(b)(2), in particular, recites:

Claims. An amendment paper must include the entire text of each claim being changed by such amendment paper and of each claim being added by such amendment paper. ***For any claim changed by the amendment paper, a parenthetical expression "amended," "twice amended," etc., should follow the claim number.*** Each changed patent claim and each added claim must include markings pursuant to paragraph (d) of this section, except that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.

[Emphasis added].

Moreover, MPEP § 1453(IV) recites:

All amendments subsequent to the first amendment must also be made relative to the patent specification in effect as of the date of the filing of the reissue application, and **not** relative to the prior amendment.

[Emphasis in original].

In the 05/05/09 Amendment, dependent claims 4 and 6 did not include status identifiers since these claims are original patent claims that have not been amended [*see* 37 C.F.R. § 1.173(b)(2)].

Claims 1, 7, and 9 were amended in the 05/05/09 Amendment for the second time, and therefore correctly included the status identifier "(Twice Amended)" [*see* 37 C.F.R. § 1.173(b)(2)].

Dependent claims 2 and 5 were not amended in the 05/05/09 Amendment, but since they had been amended once previously, they were correctly listed using the status

REPLY TO NOTICE OF NON-COMPLIANT AMENDMENT

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identifier "(Amended)" [see 37 C.F.R. § 1.173(b)(2) and MPEP § 1453(IV)].


For at least the foregoing reasons, Applicant submits that the 05/05/09 Amendment fully complies with 37 C.F.R. § 1.173, and therefore requests that 05/05/09 Amendment be entered and the Notice be withdrawn.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

Date: July 20, 2009

By:


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